

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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MARIE JOSEPH CHANTALE,

ANSWER

Plaintiff,

Civil No.
08-3644

-against-

NORTHWOOD GROUP LLC, CENTURY 21 WOLFF &
SON BUSINESS BROKERS; FREEMONT INVESTMENT
AND LOAN, WILNER LUCTAMAR; SG AMERICAS
SECURITIES; GMAC MORTGAGE; XYZ COPORATION,
(Said name being fictitious, it being the intention of Plaintiff
to designate any corporation having a legal interest in
Plaintiff's mortgages);
Does 1-10, (Said name being fictitious, it being the intention
of Plaintiff to designate any corporation having a legal
interest in Plaintiff's mortgages);

Defendants.

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Defendants **CENTURY 21 WOLFF & SON BUSINESS BROKERS and
WILNER LUCTAMAR** , by their attorneys, **PENINO & MOYNIHAN, LLP** as and for its
Verified Answer to the Complaint herein, sets forth the following:

I. INTRODUCTION

1. Denies the allegations contained in paragraphs "1" of the complaint.

II. JURISDICTION & VENUE

2. Denies knowledge or information sufficient to form a belief as to the
truth of the allegations set forth in paragraph "2", "3" and "4" of the complaint and
respectfully refers all questions of fact and law to the trial court during the course of trial.

III. PREDATORY LENDING

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “5”, “6”, “7”, “8”, “9” and “10” of the complaint.

IV. PARTIES

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” and “12” of the complaint and respectfully refers all questions of fact and law to the trial court during the course of trial.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13”, “14”, “16”, “17”, “18”, “19”, “20”, “21”, and “22” of the complaint.

V. FACTUAL ALLEGATIONS

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs “23”, “27”, “28”, “29”, “31”, “32”, “33”, “42”, “43”, “44”, “45”, “50”, “56”, “58”, “59”, “61”, “63”, and “65 of the complaint.

7. Denies the allegations contained in paragraphs “24”, “26”, “30”, “34”, “35”, “36”, “37”, “38”, “39”, “40”, “41”, “46”, “47”, “48”, “51”, “52”, “53”, “54”, “55”, “57”, “60”, “62”, “64” and “66” of the complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “25” of the complaint and respectfully refers all questions of fact and law to the trial court during the course of trial

9. Denies the allegations contained in paragraphs “49” and “67” of the complaint and respectfully refers all questions of law and ultimate fact to the trial court during the course of trial.

VI. INJURIES

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “68”, “69” and “70” of the complaint.

VII. CLAIMS

FIRST CLAIM

**Violation of the Fair Housing Act, 42 U.S.C. §§ 3605.
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

11. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “70” of the complaint as if more fully set forth at length herein.

12. Denies the allegations contained in paragraphs “72”, “73”, and “74” of the complaint.

SECOND CLAIM

**Violation of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.,
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

13. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “74” of the complaint as if more fully set forth at length herein.

14. Denies the allegations contained in paragraphs “76”, “77”, “78”, “79”, and “80” of the complaint.

THIRD CLAIM

**Deprivation of Civil Rights In Violation of 42 U.S.C. §§ 1981, 1982, and 1985
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

15. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “80” of the complaint as if more fully set forth at length herein.

16. Denies the allegations contained in paragraphs “82”, “83”, “84”, “85”, “86”, “87” and “88” of the complaint.

FOURTH CLAIM

Violation of the Deceptive Practices Act, New York State General Business Law §§ 349 (Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)

17. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “88” of the complaint as if more fully set forth at length herein.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “90” of the complaint and respectfully refers all questions of fact and law to the trial court during the course of trial.

19. Denies the allegations contained in paragraphs “91”, “92”, and “93” of the complaint.

FIFTH CLAIM

Fraud (Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)

20. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “93” of the complaint as if more fully set forth at length herein.

21. Denies the allegations contained in paragraphs “95”, “96”, “97”, “98” and “99” of the complaint.

SEVENTH CLAIM

**Breach of Fiduciary Duty
(Against Luctamar)**

22. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “66”, and “68” through “99” of the complaint as if more fully set forth at length herein.

23. Denies the allegations contained in paragraph “101” of the complaint and respectfully refers all questions of law and ultimate fact to the trial court during the course of trial.

24. Denies the allegations contained in paragraphs “102”, “103”, and “104” of the complaint.

EIGHTH CLAIM

**Violation of Human Rights Law, New York Executive Law §§ 290, et seq.
(Against Northwood, Century 21, Fremont, Does 1-10 and Wilner Luctamar)**

25. Repeats and reiterates the answers to each and every allegation contained in paragraphs “1” through “104” of the complaint as if more fully set forth at length herein.

26. Denies the allegations contained in paragraphs “106”, “107”, “108” and “109” of the complaint.

VIII. RELIEF

27. Denies the allegations contained in paragraphs “1”, “2”, “3”, “4”, “5”, “6”, “7”, and “8” of the complaint.

IX. JURY DEMAND

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth and respectfully refers all questions of fact and law to the trial court during the course of trial.

**AS AND FOR A FIRST AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

29. The Complaint fails to state a cause of action in any respect upon which relief may be granted.

**AS AND FOR A SECOND AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

30. Defendants hereby assert any and all defenses which are express or implied within the alleged contract.

**AS AND FOR A THIRD AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

31. Plaintiffs failed to set forth with specificity details of the alleged “Fraud” as required by the CPLR.

**AS AND FOR A FOURTH AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

32. Plaintiffs have failed to take the necessary measures to mitigate the damages complained of herein.

**AS AND FOR A FIFTH AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

33. Upon information and belief, in the event that a judgment is rendered against the answering defendants, it shall not be responsible for more than its proportionate share of liability to Section 1601 of the CPLR.

**AS AND FOR A SIXTH AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

34. The Complaint must be dismissed due to the Statute of Frauds.

**AS AND FOR A SEVENTH AFFIRMATIVE
DEFENSE, THE DEFENDANTS, CENTURY 21 WOLFF & SON BUSINESS
BROKERS INC., AND WILNER LUCTAMAR**

35. Plaintiffs are not permitted to recover under any other theories brought forth in the Summons and Complaint due to the doctrine of unclean hands.

WHEREFORE, the defendants, CENTURY 21 WOLFF & SON BUSINESS BROKERS and, demands judgment dismissing the Complaint herein as to said defendants.

DATED: White Plains, New York
June 2, 2008

Yours, etc.,

PENINO & MOYNIHAN, LLP

BY:

STEPHEN J. PENINO (5704)
Attorneys for Respondents
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and WILNER LUCTAMAR
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